

## ITEM 7

### PROPOSED ORDER TO SET ASIDE PARAMETERS AND GUIDELINES

Education Code Sections 33126, 35256, 35256.1, 35258, 41409, and 41409.3

Statutes 1989, Chapter 1463

Statutes 1992, Chapter 759

Statutes 1993, Chapter 1031

Statutes 1994, Chapter 824

Statutes 1997, Chapters 912 and 918

*School Accountability Report Cards* (97-TC-21, 04-RL-9721-11, 05-RL-9721-03)

Reconsideration Directed By

Statutes 2004, Chapter 895, Section 18 (Assem. Bill No. (AB) 2855) and

Statutes 2005, Chapter 677, Section 53 (Sen. Bill No. (SB) 512)

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### EXECUTIVE SUMMARY

This item is the proposed order to set aside the parameters and guidelines for the *School Accountability Report Cards* test claim (97-TC-21). This item is proposed for consideration by the Commission if the Commission adopts the staff analysis and Statement of Decision in Items 5 and 6 on the reconsideration of *School Accountability Report Cards*. If Items 5 and 6 are not adopted by the Commission, staff recommends that this item be continued until the March 2006 hearing.

As directed by AB 2855 and SB 512, the Commission has reconsidered this test claim, finding that the test claim legislation, in its entirety, does not constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code sections 17514 and 17556.

Pursuant to the express language of SB 512, the Commission decisions on reconsideration of this claim shall be applied retroactively to January 1, 2005.

#### Staff Recommendation

Staff recommends that the Commission adopt the proposed order to set aside the parameters and guidelines for *School Accountability Report Cards* test claim (97-TC-21), beginning on page 3. The proposed order shall be operative January 1, 2005.



BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Sections 33126, 35256, 35256.1, 35258, 41409 and 41409.3 as added by Statutes 1989, Chapter 1463; Statutes 1992, Chapter 759; Statutes 1993, Chapter 1031; Statutes 1994, Chapter 824; Statutes 1997, Chapter 912; Statutes 1997, Chapter 918;

And filed on December 31, 1997;

By Bakersfield City School District and Sweetwater Union High School District, Co-Claimants.

No. 97-TC-21

*School Accountability Report Cards*

ORDER TO SET ASIDE PARAMETERS  
AND GUIDELINES

*(Proposed for Adoption on January 26, 2006)*

**PROPOSED ORDER TO SET ASIDE PARAMETERS AND GUIDELINES**

In 1998, the Commission adopted a Statement of Decision approving the *School Accountability Report Cards* test claim (97-TC-21) as a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution. This test claim was filed on statutory amendments to the Proposition 98 requirements for a School Accountability Report Card.

Proposition 98, The Classroom Instructional Improvement and Accountability Act, was enacted by the voters in 1988 and provided public schools with state funding guarantees by amending the California Constitution, article XVI, section 8, School Funding Priority, and adding section 8.5, Allocation to Schools. In exchange for this constitutional guarantee of funding, the voters also required districts to undergo an annual audit and to issue an annual School Accountability Report Card. The attached parameters and guidelines were adopted on August 20, 1998, and have a reimbursement period beginning July 1, 1996, and January 1, 1998, as specified.

Statutes 2004, chapter 895, section 18 (Assem. Bill No. 2855) directed the Commission to reconsider its prior final decision and parameters and guidelines on the *School Accountability Report Cards* program (97-TC-21). Section 18 of the bill states the following:

Notwithstanding any other law, the Commission on State Mandates shall, on or before December 31, 2005, reconsider its decision in 97-TC-21, relating to the School Accountability Report Card mandate, and its parameters and guidelines for calculating the state reimbursement for that mandate pursuant to Section 6 of Article XIII B of the California

Constitution for each of the following statutes in light of federal statutes enacted and state court decisions rendered since these statutes were enacted:

- (a) Chapter 1463 of the Statutes of 1989.
- (b) Chapter 759 of the Statutes of 1992.
- (c) Chapter 1031 of the Statutes of 1993.
- (d) Chapter 824 of the Statutes of 1994.
- (e) Chapter 918 of the Statutes of 1997.

Statutes 1997, chapter 912 was part of the original test claim decision, but was not included in Assembly Bill 2855.

On July 28, 2005, the Commission adopted a Statement of Decision on reconsideration of *School Accountability Report Cards* (04-RL-9721-11), as directed by Assembly Bill 2855. The Commission concluded that Education Code sections 33126, 35256.1, 35258, 41409, and 41409.3, as added or amended by Statutes 1989, chapter 1463, Statutes 1992, chapter 759, Statutes 1993, chapter 1031, Statutes 1994, chapter 824, and Statutes 1997, chapter 918, do not impose a new program or higher level of service, and do not impose costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code sections 17514 and 17556. The Commission further determined it did not have the authority to rehear the portion of the original decision pertaining to activities required by Statutes 1997, chapter 912.

The Legislature subsequently amended Assembly Bill 2855, through Statutes 2005, chapter 677, section 53 (Sen. Bill No. 512 urgency, operative Oct. 7, 2005), to direct the Commission to reconsider Statutes 1997, chapter 912, and to apply its decision on reconsideration of the entire *School Accountability Report Cards* to claims filed beginning January 1, 2005. Section 53 of Senate Bill 512 states the following (changes indicated in underline and strikethrough):

Section 18 of Chapter 895 of the Statutes of 2004 is amended to read:

Sec. 18. (a) Notwithstanding any other law, the Commission on State Mandates shall, on or before December 31, 2005, for paragraphs (1) to (5), inclusive, and on or before January 31, 2006, for paragraph (6), reconsider its decision in 97-TC-21, relating to the School Accountability Report Card mandate, and its parameters and guidelines for calculating the state reimbursement for that mandate pursuant to Section 6 of Article XIII B of the California Constitution for each of the following statutes, particularly in light of federal and state statutes enacted and state court decisions rendered since these statutes were enacted:

- ~~(a)~~(1) Chapter 1463 of the Statutes of 1989.
- ~~(b)~~(2) Chapter 759 of the Statutes of 1992.
- ~~(c)~~(3) Chapter 1031 of the Statutes of 1993.
- ~~(d)~~(4) Chapter 824 of the Statutes of 1994.
- ~~(e)~~(5) Chapter 918 of the Statutes of 1997.
- (6) Chapter 912 of the Statutes of 1997.

(b) Notwithstanding any other provision of law, the decision of the Commission on State Mandates on its reconsiderations pursuant to subdivision (a) shall apply retroactively to January 1, 2005.

(c) Notwithstanding any other provision of law, the parameters and guidelines associated with the test claim of 97-TC-21 shall be adjusted to conform to the decision of the Commission on State Mandates on its reconsiderations.

On January 26, 2006, the Commission adopted a Statement of Decision on reconsideration of Statutes 1997, chapter 912, as directed by Senate Bill 512 (05-RL-9721-03). The Commission concluded that Statutes 1997, chapter 912, as it amended Education Code section 33126 does not impose a new program or higher level of service, and does not impose costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code sections 17514 and 17556.

In addition, pursuant to the express language of Senate Bill 512:

(b) Notwithstanding any other provision of law, the decision of the Commission on State Mandates on its reconsiderations pursuant to subdivision (a) shall apply retroactively to January 1, 2005.

Thus, the Commission concluded that both the July 28, 2005 Statement of Decision on *School Accountability Report Cards* (04-RL-9721-11), and the January 26, 2006 Statement of Decision adopted pursuant to Senate Bill 512 (05-RL-9721-03), shall apply retroactively to January 1, 2005. Accordingly, as of January 1, 2005, school districts are not entitled to reimbursement pursuant to article XIII B, section 6 of the California Constitution under the *School Accountability Report Cards* test claim (97-TC-21).

In accordance with Assembly Bill 2855 and Senate Bill 512, the Commission hereby sets aside the attached parameters and guidelines, adopted August 20, 1998, for the *School Accountability Report Cards* test claim (97-TC-21). This order to set aside the parameters and guidelines shall be operative on January 1, 2005.

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PAULA HIGASHI, Executive Director

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Date